

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 40

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBIN MIHEKUM MILLER

Appeal No. 2004-1569
Application No. 09/090,071

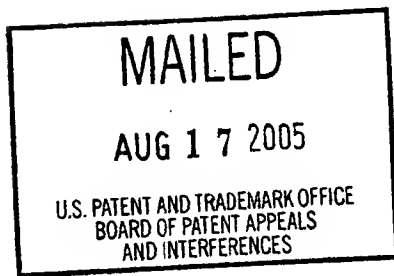
ON BRIEF

Before THOMAS, HAIRSTON, and GROSS, *Administrative Patent Judges*.
GROSS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 18 and 20, which are all of the claims pending in this application.

Appellant's invention relates to a heads-up display on the windshield of a moving vehicle. On the display, a fill pattern is selected dependent on the texture or structure of the environmental image approaching the vehicle to improve the contrast of the heads-up display relative to the environmental



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image. Claim 18 is illustrative of the claimed invention, and it reads as follows:

18. A vehicle heads-up display system comprising:

a source for providing a heads-up display onto a windshield of a moving vehicle; and

an arrangement for controlling the contrast of the heads-up display relative to an environmental image approaching the moving vehicle, wherein the arrangement includes an optical detector for capturing the environmental image approaching the moving vehicle and a control coupled to the optical detector for determining texture of the environmental image and for controlling the contrast of the heads-up display in response to the texture of the environmental image approaching the moving vehicle; and

wherein the control arrangement selects an appropriate fill pattern for the heads-up display dependent upon the texture of the environmental image in order to contrast the heads-up display relative to the environmental image.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Fukatsu et al. (Fukatsu)	5,576,724	Nov. 19, 1996
Kadomuki et al. (Kadomuki)	JP 2-227340	Sep. 10, 1990

Claims 18 and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Fukatsu in view of Kadomuki.

Reference is made to the Examiner's Answer (Paper No. 36, mailed November 13, 2003) for the examiner's complete reasoning in support of the rejection, and to appellant's Brief (Paper No. 35, filed August 20, 2003) and Reply Brief (Paper No. 37, filed November 24, 2003) for appellant's arguments thereagainst.

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OPINION

We have carefully considered the claims, the applied prior art references, and the respective positions articulated by appellant and the examiner. As a consequence of our review, we will reverse the obviousness rejection of claims 18 and 20.

Each of claims 18 and 20 recites selecting a fill pattern for the heads-up display based upon features of the environmental image approaching the vehicle. In claim 18, the fill pattern is based on the texture of the environmental image, and in claim 20, the fill pattern is based on the structural features of the environmental image.

The examiner (Answer, pages 3 and 5) admits that Fukatsu fails to teach a control arrangement that selects a fill pattern for the heads-up display dependent on either the texture or the structural features of the environmental image. The examiner asserts (Answer, pages 3-4 and 5) that Kadomuki discloses "selecting an appropriate fill pattern . . . for the heads-up display dependent upon the landscape, the trees, and the road information in order to contrast sufficiently between the respective colors of the landscape, trees and the road information relative to a background." The examiner explains (Answer, page 6) that the fill pattern of the symbol changes

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because "the symbol fills and changes pattern of color from bright to dark as shown in figures 3A and 3C."

Appellant argues (Brief, page 7) that Kadomuki does not teach selecting a fill pattern for the heads-up display which contrasts the textural or structural features of the environmental image. Instead, contends appellant (Brief, pages 7-8), Kadomuki discloses changing the display position, the color, or the brightness of the symbol for better contrast relative to the color or brightness of the environmental image. Appellant indicates (Brief, page 9 and Reply Brief, page 3) that a fill pattern differs from position, color, or brightness.

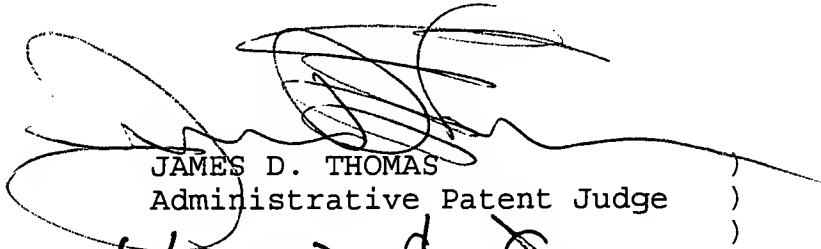
We agree with appellant. A fill pattern would include vertical or horizontal lines, cross hatching, or dots, for example. Color or brightness, by itself, does not exemplify a pattern. If the color or brightness varied regularly across the symbol, that could potentially be a fill pattern, but such is not disclosed by Kadomuki. Thus, as neither reference teaches or suggests the claimed selection of a fill pattern, the examiner has failed to establish a **prima facie** case of obviousness. Accordingly, we cannot sustain the rejection of claims 18 and 20.


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CONCLUSION

The decision of the examiner rejecting claims 18 and 20
under 35 U.S.C. § 103 is reversed.

REVERSED


JAMES D. THOMAS
Administrative Patent Judge


KENNETH W. HAIRSTON
Administrative Patent Judge


ANITA PELLMAN GROSS
Administrative Patent Judge

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